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INFO: ADM MGT ORA FCS DCM PAS AMB POL

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UNCLAS SECTION 01 OF 02 WARSAW 001011

SIPDIS

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TAGS: [ETRD](#) [EINV](#) [ETRD](#) [KIPR](#) [PL](#)  
SUBJECT: POLAND - Letter Delivered on Health Ministry Price Cuts

REF: Warsaw 0874

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SUMMARY  
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1. (SBU) DCM, accompanied by Econoff, called on Deputy Health Minister Boleslaw Piecha and delivered a letter from Ambassador Ashe to Health Minister Zbigniew Religa (see para 7). At issue is the May 18 announcement by the Ministry of Health to cut prices for imported pharmaceuticals, ostensibly due to the appreciation of the zloty over the past four years. The announcement, made on the Ministry's website, has brought a chorus of complaints not only from U.S., but from European firms as well. The DCM made several points highlighting USG concerns with the Ministry's proposal to cut the official prices for imported pharmaceuticals by 13 percent. Piecha agreed to strengthen dialogue and discuss the proposed regulations with industry next week. End Summary.

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TRADE PROBLEM  
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2. (SBU) The DCM emphasized that the proposed cuts, which affect only foreign firms, represent a potential discriminatory trade practice. He also noted that the proposal was announced on the Ministry's website, without first consulting with industry. The DCM said that one of the most promising outcomes from the meeting between

Minister Religa and Secretary of Commerce Gutierrez (see reftel) in January was commitment to establish a dialogue mechanism between the Ministry and industry. He noted that the USG wanted to avoid a trade problem with Poland, but that the discriminatory impact of 13 percent price cuts with no apparent justification was a serious matter.

13. (SBU) Piecha said that whether or not the proposed regulations were discriminatory was the issue to be debated. He noted a Baker and McKenzie report, delivered by the Association of Innovative Pharmaceutical Companies to the Ministry of Health, criticizing the proposed regulations, but did not dispute that it accurately reflected the methodology used to determine a 13 percent reduction. Piecha said that May 31 was the deadline for responses from industry on the proposal and that his staff is currently working on a response to the Baker and McKenzie report.

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IT'S THE BUDGET . . .  
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14. (SBU) Piecha noted the difficulties of managing the health care budget, especially in view of all the media attention related to the recent doctors' strike. He noted that the PLN 6 billion budget currently calls for about PLN 300 million for reimbursement. Despite pressures, he said, this money would not be reallocated to wages for doctors. However, he said that future increases in the budget would have to be proportionally allocated to salaries, which would mean that prices for pharmaceuticals would have to be proportionally cut.

15. (SBU) When asked about the Ministry's practice for reviewing pharmaceutical prices, Piecha said that the Ministry would prefer to rely on cost of production data. He acknowledged, however, that firms regard this information as proprietary and that Polish law on this matter is itself "contradictory." He said the goal of a price review procedure was to establish "flexibility" and to avoid peaks of expenditures. In response to the DCM's question about revising prices upward should the zloty depreciate, Piecha said it was possible. Piecha emphasized that a major problem is that the Ministries of Health and Finance decide on a yearly budget, not quarterly, and that this complicates attaining the flexibility goal.

16. (SBU) The DCM thanked Piecha for his time, but stressed the potential trade ramifications and the need to fulfil commitments for dialogue with industry. Piecha noted that he would be responding soon to the industry's submission and would have meetings next week on this issue.

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Comment  
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17. (SBU) Piecha acknowledged that our understanding of the methodology for determining the price cuts was accurate (or rather, that Baker and McKenzie's analysis reflects the Ministry's actual practice). He also agreed to enhancing dialogue. A visiting USTR team will meet with Health and Economics Ministry officials, and the British, Danes, and Swiss are also making their positions known. In sum, this action by the Ministry got everyone's attention. It remains to be seen what effect these united efforts may have. End Comment.

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Ashe-Religa Letter  
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18. (SBU) Begin Text of Letter

Dear Mr. Minister:

I am writing you regarding an important issue that undermines the ability of foreign pharmaceutical firms to compete in the Polish market. I understand that the

Ministry of Health, through new regulations for establishing official wholesale and retail prices of medicinal products, intends to link expenditures for imported drugs to an arbitrary exchange rate mechanism and impose a 13 percent cut in the retail price of foreign pharmaceuticals and perhaps even more at the wholesale level.

My government is concerned about this proposed action, particularly its apparent discriminatory effect on foreign firms. It is my understanding that the proposed price cut will apply to foreign companies that import medicines, or active ingredients thereof, but not to local producers, including those who import active substances. The potential discriminatory impact of this policy against foreign pharmaceutical manufacturers, innovative and generic alike, could raise serious questions regarding Poland's adherence to EU directives and WTO rules.

My staff will communicate directly with appropriate officials in your Ministry, as well as the Ministry of Economy, to discuss our concerns and how they might be addressed. I would also ask that your Ministry consult closely with the potentially affected foreign firms before proceeding.

Thank you for your attention to this matter. I look forward to working with you to resolve these issues and to establish the formal mechanism, which you discussed with Secretary Gutierrez in January, for dialogue between your Ministry and innovative drug firms.

Sincerely,

Victor Ashe  
End Text.  
Ashe